

**NEWPORT BEACH ZONING ADMINISTRATOR MINUTES**  
**Council Chambers – 3300 Newport Boulevard**  
**Thursday, January 10, 2013**  
**REGULAR HEARING**  
**3:30 p.m.**

**A. CALL TO ORDER** – The meeting was called to order at 3:30 p.m.

Staff Present: Brenda Wisneski, Zoning Administrator  
Fern Nueno, Associate Planner  
Gregg Ramirez, Senior Planner

**B. MINUTES** of November 28, 2012

**Action:** Approved

**C. MINUTES** of December 12, 2012

**Action:** Approved as amended.

**D. PUBLIC HEARING ITEMS**

**ITEM NO. 1** Hershey's Market Minor Use Permit No. UP2012-020 (PA2012-125)  
200 Marine Avenue

CD 5

Fern Nueno, Associate Planner, provided a brief project description stating that Hershey's Market is an existing grocery store with a delicatessen and that the proposed seating area is an accessory use that would not change the principal use of the store.

Ms. Nueno recommended removing Condition No. 4 from the draft resolution as it is unnecessary to restrict the number of tables and chairs when the square footage limitation is effective in limiting the seating area. Ms. Nueno believed that the required findings could be made and recommended approval based on the facts within the draft resolution.

Julie Anderson and Jim McGrath, applicants, introduced themselves. Mr. McGrath stated they have received the conditions of approval, felt all conditions of approval can be met, and that Health Department approval has been received. The applicant described the intent of the tables as a way to offer convenience to patrons, not to serve alcohol.

The Zoning Administrator opened the public hearing.

One member of the public, Jim Mosher, spoke and stated that he is not opposed to the project but wanted clarification on the application. He said that the proposal looked as if it were for a new use, but that the store already had tables. He further discussed that the approval should clarify that on-sale alcohol sales is not allowed because a future operator may want to serve alcohol.

There were no other public comments.

Ms. Nueno noted that the application was a result of a Code Enforcement action. The tables and chairs were established by the applicants without knowledge that a permit was required. When notified by that a permit was needed the application was submitted requesting a seating area with tables and chairs.

Ms. Wisneski noted that on-sale alcohol service would require an amendment to the Use Permit, and changes will be made to the conditions for clarification. Ms. Wisneski agreed with staff's recommendation to delete Condition No. 4 and added "for on-site consumption" after "... involve the sale of alcoholic beverages" to Condition No. 19.

With the discussed changes, Ms. Wisneski approved Minor Use Permit No. UP2012-020.

**Action:** Approved as amended

**ITEM NO. 2** Island Cinema Minor Use Permit - Amendment 1 to UP2011-029 (PA2012-144)  
999 Newport Center Drive CD 5

Fern Nueno, Associate Planner, provided a brief project description stating that Island Cinema is an existing theater within Fashion Island and that a Minor Use Permit was approved in November 2011 to allow the sale of beer and wine with a Type 41 License. She stated that the proposed amendment includes the addition of two outdoor dining areas, to open an hour earlier at 11:00 a.m., and changes to alcohol service including the addition of a second concession area for beer and wine sales, allowing a server to take orders, and the service of alcohol during mixed-age screenings.

Ms Nueno believed that the required findings could be made and recommended approval based on the facts within the draft resolution, which carried over the applicable conditions from the original approval.

Michael Ayaz, General Counsel for Liquor License, representing the Regal Theater, stated they have reviewed the conditions of approval and indicated willingness to work with the Police Department and City staff, and felt that all conditions of approval can be met. The General Manager from Regal Cinema was available to discuss any operational questions.

The Zoning Administrator opened the public hearing.

One member of the public, Jim Mosher, expressed concern about the project and strongly opposed the mixed-age screenings, referencing the recent Port Theater approval that had designated 21 and over areas. Mr. Mosher thinks it is difficult to make the finding regarding public health, safety, and welfare, would have rather heard the proposal from Regal instead of Liquor License, and had concerns that not all of the Police Department recommended conditions were carried over into the resolution.

Mr. Ayaz responded to the public comments by stating that they have been operating for a year with alcoholic beverage sales without any issues or alcohol related violations, they have worked with the Police Department and Planning Division regarding operational limitations, and that he represents Regal Theater so the application is from Regal, not Liquor License. Mr. Ayaz further discussed that Regal Theater operates several theaters including many that serve alcohol and that this theater is in an upscale area and customers have come to expect this type of service.

There were no other public comments.

Ms. Wisneski discussed the significant time and research staff dedicated to reviewing this application to ensure that the proposal was appropriate. Ms. Wisneski further mentioned that the previous approval in 2011 allowed alcohol sales and we have had a year to review the alcohol sales and operation, and several other theaters operate in a similar fashion. Ms. Wisneski acknowledged that staff visited the site and the Police Department visited another theater with similar operations, and careful consideration was put into the conditions of approval. Ms. Wisneski noted that the site and operations are suitable for this type of service and that this site is different than Port Theater in Corona del Mar as it is a movie theater use within a commercial area.

Ms. Wisneski approved Amendment 1 to Minor Use Permit No. UP2011-029.

**Action:** Approved as amended

**ITEM NO. 3**

Ink Yard Tattoo Studio Minor Use Permit No. UP2012-028 (PA2012-159)  
2233 W. Balboa Blvd., Suite 106

CD 1

Gregg Ramirez, Senior Planner, provided a brief project description. He explained that the proposed use would occupy an 890 square foot vacant tenant space located in a mixed use building and that the recommended hours were 10:00 a.m. to 11:00 p.m., Monday through Saturday, and 10:00 a.m. to 10:00 p.m. on Sunday. He further noted that staff believed the findings for approval could be made and that staff was recommending approval of the MUP.

The applicant indicated that it would be an uncommon occurrence for the facility to stay open until 11:00 p.m. but, noted that the flexibility would help in cases where a job could not be completed by the closing hour.

Zoning Administrator Wisneski opened the public hearing.

Jim Mosher, resident, noted a discrepancy between the hours of operation indicated in finding C2 and the hours of operation indicated in draft condition of approval no. 2.

Zoning Administrator Wisneski closed the public hearing.

Ms Wisneski noted that she agreed with hours proposed by staff to allow the operator flexibility and directed staff to change finding C2 to reflect the recommended hours of operation.

**Action:** Approved as amended

**E. PUBLIC COMMENTS ON NON-AGENDA ITEMS**

Jim Mosher stated he could not locate the audio minutes for the Zoning Administrator hearings on the City's website. Ms. Wisneski informed Mr. Mosher that staff is working on this service for the public.

**ADJOURNMENT**

The hearing was adjourned at 3:55 p.m.

**The agenda for the Regular Hearing was posted on January 4, 2013, at 1:00 p.m. on the City Hall Bulletin Board located outside of the City of Newport Beach Administration Building and on the City's website on January 4, 2013, at 1:45 p.m.**

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Brenda Wisneski, AICP, Zoning Administrator